

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 15006 of 2005****For Approval and Signature:****HONOURABLE MR.JUSTICE ANANT S.DAVE**

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Whether Reporters of Local Papers
1 may be allowed to see the
judgment ?

2 To be referred to the Reporter or
not ?

3 Whether their Lordships wish to see
the fair copy of the judgment ?

Whether this case involves a
substantial question of law as to
4 the interpretation of the
constitution of India, 1950 or any
order made thereunder ?

5 Whether it is to be circulated to
the civil judge ?

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NARENDRABHAI ALIAS NAVINBHAI GORDHANLAL VANIA -**Petitioner(s)****Versus****STATE OF GUJARAT & 2 - Respondent(s)**

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Appearance :

MR FERUZ H PATHAN for Petitioner(s) : 1,

RULE SERVED BY DS for Respondent(s) : 1 - 2.

GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE ANANT S.DAVE

Date : 06/09/2005

ORAL JUDGMENT

1. By way of present petition, the petitioner detainee has challenged the order dated 29.04.2005 passed by the Police Commissioner, Ahmedabad City, detaining the detainee under the provisions of Sub-section (1) of Section 3 of Gujarat Prevention of Antisocial Activities Act, (for short, 'the PASA Act'). That alongwith the order of detention the petitioner was served upon with the grounds of detention which refers about the registration of an offence, a solitary criminal case bearing registration no. I.C.R.No.3080/2005 registered with Satellite Police Station for the offences punishable under Sections 3,4,5,6,7 and 9

of Immoral Traffic (Prevention) Act, 1956.

The Detaining Authority has relied upon the aforesaid registration of solitary offence as well as statements of two witnesses and it refers to highhanded action of the petitioner in beating up some persons and abusing them in the public. It also refers about the petitioner indulging into various offences under Immoral Traffic (Prevention) Act, 1956 and states that he brings women for alluring them and under the guise of running the beauty parlor he indulges in trafficking the women and forces them for prostitution. The activities of the detenue, thus amount prejudicial activities disturbing the public order.

2. The order of detention is mainly challenged on the ground that there is only one criminal case registered against the petitioner, and, therefore, it cannot be said that the petitioner is a habitual offender and unless a person is habitual offender, he cannot be detained under PASA. To substantiate his say, learned advocate for the petitioner has relied upon Section 2(g) of the Gujarat Prevention of Antisocial Activities Act, which reads as under:-

“2(g):- “immoral traffic offender” means a person who habitually commits or abets the commission of any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (104 of 1956).”

3. It is not in dispute that there is

only one case registered against the petitioner in which he is released on bail. Even statement of witness is not in relation to immoral trafficking. Considering the fact that there is only a solitary case registered against the petitioner under the Immoral Traffic (Prevention) Act, 1956, it cannot be said that he is a "habitual offender" It is, no doubt, true that the petitioner has indulged in a serious offence but the same cannot be said to be the ground for treating him as a "habitual offender". Learned advocate for the petitioner pointed out that the petitioner is released on bail for the said offence. However, it is for the concerned court to consider the seriousness of the offence.

4. Mrs. Hansa B. Punani, learned A.G.P. has submitted that the authority can even

attach the property of the accused if the same is found to be used in illegal activities. However, it is for the police authority to act to prevent such activities, as it is a social evil.

5. Mr.Pathan, learned advocate for the petitioner submitted that some documents, which are supplied to the petitioner alongwith the order of detention, which find place at pages no.11 and 13, are not eligible.

6. Considering the fact that only a solitary case is registered against the petitioner, it cannot be said that he is a "habitual offender", who is dealing in such illegal activities. Of course, it is always open for the police to prevent such activity by taking preventive measures but so far as the impugned order is concerned,

it cannot be said that the petitioner is a habitual offender, as there is nothing to show that any other cases are registered against the petitioner. Accordingly, this petition is required to be allowed on this limited ground.

7. For the forgoing reasons, this petition is allowed. The order of detention dated 29.04.2005 is hereby quashed and set aside. The detenue Narendrabhai @ Navinbhai Gordhanlal Vaniya is ordered to be set at liberty forthwith if not required in any other case by any other authority. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(ANANT S. DAVE, J.)

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